

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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THE ESTATE OF CHRIS BROWN,  
DENISE BROWN (individually and as  
the personal representative of Brown's  
estate), JOHN BROWN, SAMANTHA  
BROWN and JACOB BROWN,

Plaintiffs,

v.

JENNIFER MEIERDIRK (in her  
individual and official capacities),  
SHAWN NOLAN (in his individual  
and official capacities), WAYNE  
HANSEN (in his individual and  
official capacities), JOSH LUND (in  
his individual and official capacities)  
and ROCK COUNTY,

Defendants.

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ORDER

07-cv-471-bbc

Judgment was entered in favor of defendants in this case on June 12, 2008 (dkt. #49). On June 27, 2008, plaintiffs filed a motion under Fed. R. Civ. P. 59(e) and 60(b) requesting partial reconsideration of my June 12 order (dkt. #48).

Motions to alter or amend a judgment under Rule 59(e) "must be filed no later than

10 days after the entry of the judgment.” Although plaintiffs allege that judgment was entered on June 13, 2008, they are mistaken. The judgment was signed on June 12, 2008, and is listed on the docket sheet as “filed” on June 12, 2008. Excluding weekends and the day judgment was entered in accordance with Rule 6(a), ten days from June 12, 2008, was June 26, 2008. Plaintiffs filed this motion on June 27, one day late. Time to file Rule 59(e) motions cannot be extended. Fed. R. Civ. P. 6(b)(2). Therefore, plaintiffs motion cannot be brought under Rule 59(e) and must be considered under Rule 60(b).

Rule 60(b) authorizes a court to grant relief from judgment when a party brings a motion based on one of six specific grounds listed in the rule. Fed. R. Civ. P. 60(b); see also United States v. Deutsch, 981 F.2d 299, 301 (7th Cir. 1992) (explaining that Rule 60(b) motions “must be shaped to the specific grounds for modification or reversal found in 60(b)— they cannot be general pleas for relief”). Specifically,

the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b). Plaintiffs do not specify which of the six grounds is applicable to their motion. A review of plaintiffs’ contentions establishes that none could be categorized under

grounds one through five. The only possible ground plaintiffs can be attempting to proceed on is ground six, that is, “any other reason that justifies relief.”

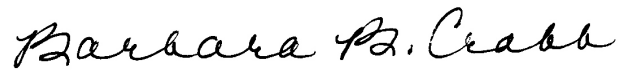
Relief under Rule 60(b)(6) is extraordinary relief and requires a showing of exceptional circumstances, none of which have been shown to exist in this case. See, e.g., Kagan v. Caterpillar Tractor Co., 795 F.2d 601 (7th Cir. 1986); Andrews v. Heinold Commodities, Inc., 771 F.2d 184 (1985). Instead of presenting exceptional circumstances, plaintiffs have merely restated the contention they made on summary judgment, which was that there are sufficient facts for a reasonable jury to determine that defendant Hansen was aware that Chris Brown posed a substantial suicide risk. Plaintiffs reiterate that it should be left to a jury to decide defendant Hansen’s state of mind. Plaintiffs’ contention failed on summary judgment and it fares no better on reconsideration because “[a] motion that merely republishes the reasons that had failed to convince the tribunal in the first place gives the tribunal no reason to change its mind.” Ahmed v. Ashcroft, 388 F.3d 247, 249 (7th Cir. 2004). Accordingly, plaintiffs’ motion will be denied.

ORDER

IT IS ORDERED that the motion for partial reconsideration (dkt. #53) filed by plaintiffs Estate of Chris Brown, Denise Brown, John Brown, Samantha Brown and Jacob Brown is DENIED.

Entered this 9th day of July, 2008.

BY THE COURT:

A handwritten signature in black ink, reading "Barbara B. Crabb", written in a cursive style.

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BARBARA B. CRABB  
District Judge